

Miss Utility Bill as of June 2004

Article - Public Utility Companies

§ 12-101.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Contractor" means a person that performs excavations or demolitions.

(2) "Contractor" includes a person that performs excavations or demolitions under a contract or subcontract.

(c) "Demolition" means an operation in which a structure or mass of material is wrecked, razed, rended, moved, or removed using any tool, equipment, or explosive.

(d) (1) "Excavation" means an operation in which earth, rock, or other material in or on the ground is moved, removed, or otherwise displaced by using any tool, equipment, or explosive.

(2) "Excavation" includes grading, trenching, digging, ditching, drilling, augering, tunnelling, scraping, cable or pipe plowing and driving a mass of material.

(e) "One-call system" means a communications network in the State that:

(1) allows a person to telephone a one-number utility protection system;

(2) provides a toll-free number for persons to call and notify owner-members of planned excavation or demolition; and

(3) maintains an owner-contractor information exchange system.

(f) (1) "Owner" means a person that:

(i) owns or operates an underground facility; and

(ii) has the right to bury an underground facility.

(2) "Owner" includes:

(i) a public utility;

(ii) a telecommunications corporation;

(iii) a cable television corporation;

- (iv) a political subdivision;
- (v) a municipal corporation;
- (vi) a steam heating company; and
- (vii) an authority.

(g) "Owner-contractor information exchange system" means an automated voice response unit maintained as a part of a one-call system.

(h) "Owner-member" means an owner that participates as a member in a one-call system.

(i) (1) "Person" has the meaning stated in § 1-101 of this article.

(2) "Person" includes:

- (i) a municipal corporation; and
- (ii) a governmental unit, department, or agency.

(j) (1) "Underground facility" means personal property that is to be buried or submerged for:

(i) use in connection with the storage or conveyance of water, sewage, oil, gas, or other substances; or

(ii) transmission or conveyance of electronic, telephonic, or telegraphic communications or electricity.

(2) "Underground facility" includes pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those portions of poles below ground.

(3) "Underground facility" does not include a stormwater drain.

§ 12-102.

It is the intent of the General Assembly to protect underground facilities of owners from destruction, damage, or dislocation to prevent:

- (1) death or injury to individuals;
- (2) property damage to private and public property; and

- (3) the loss of services provided to the general public.

§ 12-103.

This subtitle does not apply to an excavation or demolition performed or to be performed by an owner of a private residence when the excavation or demolition is performed or to be performed entirely on the land on which the private residence of the owner is located.

§ 12-104.

(a) Except as provided in subsections (b) and (c) of this section, a person that obtains the information required under this subtitle is not excused from:

- (1) performing an excavation or demolition in a careful and prudent manner;
and

- (2) liability for damages or injury that results from the excavation or demolition.

(b) If an underground facility is damaged by a person that fails to comply with this subtitle, the person is deemed negligent and is liable to the owner for the total cost of repair of the underground facility, unless the owner has failed to become an owner-member in accordance with § 12-109 (b) of this subtitle.

(c) If an underground facility is damaged by a person who is in compliance with this subtitle and the owner has failed to become an owner-member in accordance with § 12-109 (b) of this subtitle:

- (1) the person is not liable to the owner for the cost of repair of the underground facility; and

- (2) the owner is liable for any repairs or restoration of property damaged by the excavation or demolition.

(d) Subsection (c) of this section may not be construed to interfere with the right of:

- (1) a third party to recover damages arising out of the excavation or demolition from the person or from the owner; or

- (2) the person to seek contribution from an owner for damages sought by a third party under paragraph (1) of this subsection.

§ 12-105.

(a) Subject to § 12-104(b) of this subtitle, if all reasonable precautions have been taken to protect underground facilities, § 12-104(a) of this subtitle and §§ 12-106 through 12-113 of this subtitle do not apply to an emergency excavation or demolition being performed to prevent danger to life, health, or property.

(b) A person performing an emergency excavation or demolition to prevent danger to life, health, or property shall:

(1) take all reasonable precautions to protect underground facilities in and near the excavation or demolition area; and

(2) promptly notify each owner of an underground facility in and near the excavation or demolition area.

§ 12-106.

(a) Except as provided in subsection (b) of this section, a person that operates a one-call system in the State shall register with and obtain certification to operate from the Commission.

(b) A person operating a one-call system on or before July 1, 1990, is automatically registered with and certified by the Commission to continue to operate.

(c) (1) The operator of a one-call system shall install and make available an owner-contractor information exchange system in its one-call center in the State.

(2) The owner-contractor information exchange system shall be available to any caller at all times.

(d) The Commission may grant, amend, or revoke the certification of a person operating a one-call system.

§ 12-107.

A person may not begin an excavation or demolition unless the marking required under this subtitle has been completed or the person has received notice from each owner or the one-call system that marking is unnecessary.

§ 12-108.

(a) Excluding Saturdays, Sundays, and legal holidays, at least 48 hours, but not more than 10 working days before starting an excavation or demolition, a person that intends to perform an excavation or demolition in the State shall notify by telephone, either directly or through a one-call system, each owner of the person's intent to perform an excavation or demolition.

(b) A person shall repeat the notification required under subsection (a) of this section if:

- (1) the excavation or demolition did not begin within 10 working days; or
- (2) the excavation or demolition is to be expanded beyond its original location.

(c) A person may begin excavation or demolition only if the person contacts or receives notification from the owner-contractor information exchange system of the one-call system confirming that all applicable owners have either marked their underground facilities or reported that they have no underground facilities in the vicinity of the excavation or demolition.

(d) A person shall exercise due care to avoid interference with or damage to an underground facility that an owner has marked in accordance with § 12-110 of this subtitle.

(e) The person performing an excavation or demolition immediately shall notify the owner of the facility if the person discovers or causes any damage to or dislocation or disturbance of an underground facility in connection with any excavation or demolition.

§ 12-109.

(a) Each owner shall file notice with and submit to the Commission in writing the telephone number of the person in each county to which calls concerning proposed excavations or demolitions are to be directed.

(b) Each owner shall be a member of a one-call system that has filed a telephone number with the Commission on behalf of all owner-members.

(c) Excluding Saturdays, Sundays, and legal holidays, within 48 hours after receiving notice from a person under § 12-108 of this subtitle, an owner shall determine if a proposed excavation or demolition:

- (1) is within 5 feet of the horizontal plane of an underground facility; or
- (2) because of planned blasting, is in such proximity to an underground facility that the underground facility may be damaged or disturbed.

(d) Excluding Saturdays, Sundays, and legal holidays, within 48 hours after receiving the person's notice under § 12-108 of this subtitle, an owner that determines under subsection (c) of this section that an underground facility may be damaged or disturbed shall notify the person of the determination.

(e) An owner that elects to perform a proposed excavation or demolition shall perform the excavation or demolition around the underground facility in a timely manner.

§ 12-110.

(a) An owner shall mark the location of an underground facility within 18 inches on a horizontal plane on either side of the underground facility if the owner has determined under § 12-109 of this subtitle that a proposed excavation or demolition:

- (1) is within 5 feet of the horizontal plane of the underground facility; or
- (2) because of planned blasting, is in such proximity to an underground facility that the underground facility may be damaged or disturbed.

(b) Excluding Saturdays, Sundays, and legal holidays, if an owner cannot complete the marking under subsection (a) of this section within 48 hours after a determination under § 12-109 of this subtitle, the owner shall notify the person of the date and time when the location will be marked.

(c) When marking the location of an underground facility, an owner shall use the following color code:

UTILITY TYPE AND PRODUCT	SPECIFIC GROUP IDENTIFYING COLOR
Electric power distribution and transmission	safety red
Municipal electric systems	safety red
Gas distribution and transmission	high visibility safety yellow
Oil distribution and transmission	high visibility safety yellow
Dangerous materials, product lines, and steam lines	high visibility safety yellow
Telephone and telecommunications	safety alert orange
Cable television	safety alert orange
Water systems	safety precaution blue

Sewer lines

safety green.

(d) Excluding Saturdays, Sundays, and legal holidays, within 48 hours after receiving notice from a person under § 12-108 of this subtitle, an owner shall notify the person that marking is unnecessary if the owner determines that:

(1) the owner does not have an underground facility at the location stated in the notice;

(2) the proposed excavation or demolition is not planned within 5 feet of the horizontal plane of an underground facility; or

(3) the proposed excavation or demolition to be performed by blasting is not planned in such proximity to an underground facility that the underground facility may be damaged or disturbed.

(e) After an owner has marked the location of an underground facility in accordance with this section, the person solely is responsible for the maintenance of the designated marker.

(f) If a marker is obliterated, destroyed, or removed, an owner shall re-mark the location of the underground facility not more than 48 hours, excluding Saturdays, Sundays, and legal holidays, after receiving a request to re-mark the location.

(g) (1) (i) No later than 48 hours after a person notifies the one-call system of proposed excavation or demolition, the owner or person acting on the owner's behalf, after taking all action required by this section to identify the owner's underground facilities in the vicinity of the proposed excavation or demolition, shall notify the owner-contractor information exchange system of whether the location is marked or clear of the owner's underground facilities.

(ii) Notification under this subsection that the location is clear of the owner's underground facilities constitutes notice by the owner required under subsection (d) of this section.

(2) The one-call center shall repeat notification to any owner who has failed to respond to the owner-contractor information exchange system within 48 hours after the original notification under paragraph (1) of this section.

§ 12-111.

(a) A political subdivision or municipal corporation may charge, assess, or collect from a person a one-time initial marking fee not exceeding \$35 for reimbursement of expenses that the political subdivision or municipal corporation incurs to comply with this subtitle.

(b) If re-marking is requested, or is required after renotification under § 12-108(b) of this subtitle, a political subdivision or municipal corporation may charge, assess, or collect from a person a re-marking fee not exceeding \$15 for reimbursement of expenses that the political subdivision or municipal corporation incurs to comply with this subtitle.

§ 12-112.

(a) To stop or prevent a negligent or unsafe excavation or demolition, an owner or the Attorney General may file an action for a writ of mandamus or injunction in a court of competent jurisdiction in Baltimore City or the county in which the excavation or demolition is being performed or is to be performed or in which the person resides or has its principal place of business, if the person:

(1) is performing an excavation or demolition in a negligent or unsafe manner that has resulted in or is likely to result in damage to an underground facility; or

(2) is intending to use procedures to carry out the excavation or demolition that are likely to result in damage to an underground facility.

(b) (1) To make its judgment or processes effective, the court may join as parties any persons necessary or proper.

(2) If appropriate, the court shall issue a final order granting the injunction or writ of mandamus.

§ 12-113.

(a) A person that performs an excavation or demolition without first providing the notice required under § 12-108 of this subtitle and damages, dislocates, or disturbs an underground facility is deemed negligent and is subject to a civil penalty not exceeding \$1,000 for the first offense and \$1,000 for each subsequent offense or ten times the cost of repairs to the underground facility caused by the damage, dislocation, or disturbance.

(b) An action to recover a civil penalty under this section shall be brought by an owner of a damaged, dislocated, or disturbed underground facility or the Attorney General in a court of competent jurisdiction in Baltimore City or the county in which the damage, dislocation, or disturbance occurred.

(c) All civil penalties recovered in an action under this section, including reasonable attorney's fees, shall be paid into the General Fund of the State.

§ 12-201.

This subtitle applies only in Montgomery County.

§ 12-202.

(a) On request from a person under subsection (b) of this section, a public service company shall provide to the person information under this subtitle that shows the location of the existing underground utility lines and structures of the public service company.

(b) A person, including a public agency, is entitled to request information under this subtitle if the person intends to grade, strip, excavate, clear, transport, or fill land in the County or move earth in the County for the purpose of construction, development, or land clearing.

(c) A person requesting information under subsection (a) of this section shall make the request at least 7 days but not more than 30 days before the scheduled start of work.

(d) If site drawings or plans are required by the County or a municipal corporation in which the work site is located, a request for information shall include two copies of a site drawing or plan that shows the location of the work site.

(e) Promptly after receiving a request for information under subsection (a) of this section, a public service company shall certify to the person making the request:

(1) whether underground utility lines or structures of the public service company are located in the intended work area; and

(2) if underground utility lines or structures of the public service company are located in the area where the work is to be performed, that the location and size of the underground utility lines or structures have been marked on the ground or the date and time by which the marking will be performed.

(f) At the same time the public service company provides the certification under subsection (e) of this section, the public service company shall:

(1) return to the person making the request one copy of any site drawing or plan previously submitted; and

(2) indicate on the site drawing or plan the horizontal location and size of its underground utility lines and structures.

§ 12-203.

(a) (1) Excluding Saturdays, Sundays, and holidays, not more than 48 hours before the start of the work described in § 12-202 of this subtitle, a public service company shall mark on the ground by staking, painting, or other suitable means the horizontal location and size of its underground lines and structures indicating the center of the line and its size or the sides of the structure.

(2) The public service company shall mark, as appropriate, within 3 feet of the center of the underground utility line or the side of the underground utility structure.

(3) If the underground structure is a cable or cables, the public service company shall include in the marking the number of cables.

(b) If a public service company cannot mark the work site because of extraordinary circumstances within the time required under subsection (a) of this section, the public service company shall so notify the County and the person that made the request for information under § 12-202 of this subtitle of the date and time the work site will be marked.

§ 12-301.

(a) In this subtitle the following words have the meanings indicated.

(b) (1) "Communication service" means the transmission of intelligence by electrical means.

(2) "Communication service" includes the transmission of intelligence by telephone lines, telegraph lines, messenger-call, police, fire alarm, and traffic control circuits and circuits used to transmit standard television or radio signals.

(c) "Convert" means to remove all or part of an existing overhead electric or communication facility and to replace it at the same or another location with an underground electric or communication facility.

(d) "Conversion" means to convert an overhead electric or communication facility.

(e) (1) "Electric or communication facility" means a works or improvement used or useful in providing electric service or communication service.

(2) "Electric or communication facility" includes poles, supports, tunnels, manholes, vaults, conduits, ducts, pipes, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, capacitors, meters, communication circuits, appliances, attachments, and appurtenances.

(3) "Electric or communication facility" does not include a facility that:

(i) uses or is intended to be used to transmit electricity at nominal voltages in excess of 35,000 volts; or

(ii) is owned, used by, or provided for a railroad or pipeline and located on or above the right-of-way of the railroad or pipeline.

(f) "Electric service" means the distribution of electricity for heat, light, or power.

(g) (1) "Public agency" means a county, municipal corporation, special district, or public corporation that provides electric service or communication service to the public by means of an electric or communication facility.

(2) "Public agency" does not include a county, municipal corporation, special district, or public corporation that conducts a proceeding for a conversion under this subtitle.

(h) "Public utility" means a person that provides electric or communication facilities.

§ 12-302.

(a) The General Assembly finds that, in many areas of the State, landowners, cities, counties, municipal corporations, public agencies, and public utilities desire to convert existing overhead electric or communication facilities to underground locations through proceedings under this subtitle.

(b) The General Assembly declares that:

(1) a public purpose will be served by providing a procedure to convert existing overhead electric or communication facilities to underground locations; and

(2) it is in the public interest to provide for a conversion through proceedings established under this subtitle.

§ 12-303.

This subtitle does not apply in Baltimore County.

§ 12-304.

(a) This subtitle does not limit the authority of the Commission under this article, the Maryland Constitution, or any other law whether by statute or court decision.

(b) This subtitle does not limit the authority of the Commission to determine whether, in what manner, and by whom costs are to be assessed, paid, recovered, or absorbed when an underground electric or communication facility is converted, constructed, operated, maintained, repaired, replaced, or enlarged.

§ 12-305.

A county or municipal corporation shall adopt rules and regulations to carry out this subtitle.

§ 12-306.

Proceedings under this subtitle may be used to:

- (1) convert an existing electric or communication facility; and
- (2) construct, reconstruct, or relocate any other related electric or communication facility.

§ 12-307.

(a) Proceedings for a conversion must be initiated by petition filed under § 12-308 of this subtitle.

(b) The petition shall:

- (1) define generally the proposed conversion;
- (2) request that proceedings for the proposed conversion be initiated under this subtitle; and
- (3) describe the proposed conversion district by:
 - (i) specifying its exterior boundaries;
 - (ii) providing a description of the proposed conversion district according to an official or recorded map; or
 - (iii) referring to a plat or map filed with the petition that indicates the proposed conversion district by boundary line.

(c) (1) A petition for proceedings for a conversion must be signed by not less than 20 landowners within the proposed conversion district whose property constitutes more than 80% of the assessed value of property within the proposed conversion district.

(2) For purposes of this subsection, the assessed value of the property shall be determined by the last assessment roll used by the county or municipal corporation.

§ 12-308.

(a) The petition shall be filed with the clerk of the legislative body of the county or municipal corporation in which the proposed conversion district is located.

(b) After a petition is filed under subsection (a) of this section, the clerk shall review the petition.

(c) If the petition is signed by the number of qualified landowners required under § 12-307 of this subtitle, the clerk shall execute a certificate of sufficiency and present the petition and certificate to the legislative body.

§ 12-309.

(a) On presentation of the petition and the certificate of sufficiency from the clerk under § 12-308 of this subtitle, the legislative body of the county or municipal corporation may adopt a resolution that declares its intent to:

- (1) order the conversion described in the petition; and
- (2) enter into an agreement with a public agency or public utility that provides for plans and specifications, contributions of labor, materials, or money, and payment for any work, improvement, or service proposed under the petition.

(b) In addition to a general description of the proposed conversion and the proposed conversion district, the resolution of intent shall contain a notice that states the date, hour, and place at which a person with an objection to the proposed conversion may appear at a public hearing before the legislative body, or its designated committee, and show cause why the proposed conversion should not be carried out in accordance with the resolution of intent and why a resolution ordering the conversion should not be adopted.

(c) The public hearing required by subsection (b) of this section shall be held not less than 15 days and not more than 60 days after the date the resolution of intent is adopted.

(d) (1) A legislative body, or its designated committee, need not provide notice and a public hearing under this section if, when considering the adoption of a resolution of intent, the legislative body finds and determines by four-fifths vote that, on or before the fifth day before the day that the resolution of intent will be considered for adoption, all of the landowners, or their agents, within the proposed conversion district to be assessed have signed and filed a petition with the clerk of the legislative body waiving their right to a public hearing.

(2) A petition filed under paragraph (1) of this subsection shall include:

(i) a statement that, to the extent of the proposed conversion district to be assessed, the landowners do not object to the proposed conversion, or to an agreement proposed to be made under § 12-311 of this subtitle, and do not have any other objection; and

(ii) a request that the legislative body, or its designated committee, not hold a public hearing.

(e) (1) During the 15 days after the public hearing, if held, landowners within the proposed conversion district may certify the withdrawal of their names from the petition for conversion.

(2) A petition for conversion shall be considered withdrawn if the number of landowners certifying their withdrawal is such that the remaining signatures of landowners on the petition constitute less than 50% of the total assessed value within the proposed conversion district.

§ 12-310.

(a) After receipt of a petition under § 12-308 of this subtitle, the legislative body of the county or municipal corporation shall order an investigation and a report on the petition.

(b) (1) The report shall include:

(i) the nature of the conversion;

(ii) the estimated cost of the conversion and the proceedings for the conversion;

(iii) funds available from other sources to pay the costs of conversion;

(iv) existing assessments;

(v) the estimated conversion costs on each parcel; and

(vi) the maturity date and probable interest rate of any bonds to be issued.

(2) Engineering details and cost estimates included in the report may not be in any greater detail than necessary for the formulation of a judgment on the feasibility and expense of the proposed conversion.

(c) The report shall be available to the public:

- (1) when the notice required under § 12-309 of this subtitle is published; and
- (2) at the public hearing, if held, established in the notice.

§ 12-311.

(a) In a proceeding for a conversion, the county or municipal corporation and any public agency or public utility supplying electric service or communication service with the county or municipal corporation shall provide by agreement that:

(1) at the start or on completion of the conversion, the public agency or public utility has legal title to the electric or communication facilities; and

(2) the electric or communication facilities are:

(i) a part of the system of the public agency or public utility; and

(ii) to be used, operated, maintained, and managed by the public agency or public utility as part of its system.

(b) Subject to any rules, regulations, or tariffs applicable to the public agency or public utility, the agreement also shall provide for the following:

(1) the supplying of or approval by the public agency or public utility of plans and specifications related to the conversion and labor or materials to be used in the conversion; and

(2) the performance by the public agency or public utility of all or part of the conversion or improvements and payment to the public agency or public utility for the conversion or improvements.

(c) An agreement made under this section must be made before the legislative body of the county or municipal corporation adopts a resolution ordering the conversion.

(d) (1) If the proceeding for a conversion is discontinued:

(i) any agreement made under this section is void;

(ii) the petitioners shall reimburse the public agency or public utility for engineering and other preliminary expenses incurred that exceed \$2,500; and

(iii) the petitioners or the county or municipal corporation may not reimburse the public agency or public utility for engineering and other preliminary expenses incurred that are \$2,500 or less.

(2) If the proposed conversion is completed, any engineering and other preliminary expenses incurred by the public agency or public utility shall be included as part of the cost of the conversion.

(e) Before an agreement made under this section takes effect the Commission may conduct proceedings and shall:

(1) determine that the agreement is in the public interest; and

(2) issue an order to approve the agreement, disapprove the agreement, or approve the agreement subject to specified conditions.

§ 12-312.

(a) After approval by the Commission of an agreement under § 12-311 of this subtitle and, if required, a public hearing in accordance with § 12-309 of this subtitle, the legislative body of the county or municipal corporation may adopt a resolution ordering the conversion to be completed in accordance with the resolution.

(b) The resolution shall include:

(1) a description of the proposed conversion district;

(2) the method of financing the conversion costs, including:

(i) the issuance of bonds or other evidence of indebtedness;

(ii) an advance from the general fund of the county or municipal corporation; or

(iii) direct payment by the landowners in the conversion district of their respective shares of the conversion costs; and

(3) the amount and duration of property taxes to be levied in the conversion district each year for repayment of any bonds, evidence of indebtedness, or any advances from the general fund of the county or municipal corporation.

§ 12-313.

(a) Subject to applicable rules, regulations, tariffs, or ordinances, the landowner is responsible for the costs of construction, reconstruction, relocation, or conversion of all electric or communication facilities of a public agency or public utility from the point of attachment of the electric or communication facility to any improvements located on the landowner's property within a conversion district.

(b) (1) The contractor, public agency, public utility, county, or municipal corporation performing the conversion is responsible for the conversion of all electric or communication facilities to the point of attachment to any improvements located on property within the conversion district.

(2) The conversion costs incurred under paragraph (1) of this subsection shall be included in the total conversion costs that are to be assessed against the property.

§ 12-314.

(a) (1) At least 15 days before the date of commencement of construction, the clerk of the legislative body of the county or municipal corporation shall mail a notice to each landowner within the conversion district that informs the landowner of the provisions of § 12-313 of this subtitle.

(2) The clerk shall use the names and addresses from the most recent property assessment roll of the county or municipal corporation, or as otherwise known by the clerk.

(b) The notice mailed under subsection (a) of this section shall include a statement that, unless the landowner complies with the requirements of § 12-313 of this subtitle, all buildings, structures, and other improvements located on the property may be disconnected from the overhead electric or communication facilities that provide electric service or communication service to the buildings, structures, or other improvements.

§ 12-315.

(a) If a landowner fails to comply with § 12-313 of this subtitle, all overhead electric or communication facilities providing electric service or communication service to any building, structure, or other improvement on the property shall be disconnected and removed.

(b) At least 5 days before the disconnection, the landowner shall be provided written notice of the disconnection by leaving a copy of the notice at the principal building, structure, or other improvement located on the property.

§ 12-316.

(a) This section does not authorize a county or municipal corporation to avoid compliance with any competitive bidding requirements for a conversion or improvement to be performed by a private contractor.

(b) Provisions in State, county, or municipal law that require competitive bidding do not apply to a conversion or improvement performed by:

- (1) a county, municipal corporation, public agency, or public utility; or
- (2) a department, agency, commission, or office of a county or municipal corporation.

§ 12-317.

(a) In accordance with its charter or a public general law or public local law, a county or municipal corporation may issue bonds or other evidence of indebtedness to carry out this subtitle.

(b) To pay the principal and interest on bonds or other evidence of indebtedness or an advance from its general fund, a county or municipal corporation may levy property taxes on the assessed value of all real property and classes of assessable personal property within the conversion district.

§ 13-101.

(a) This section does not apply to a violation of the following provisions of this article:

- (1) Title 5, Subtitle 4;
- (2) Title 7, Subtitle 1;
- (3) Title 8, Subtitles 1 and 3; and
- (4) Title 9, Subtitle 3.

(b) A person may not fail, neglect, or refuse to comply with any provision of this article or any effective and outstanding direction, ruling, order, rule, regulation, or decision of the Commission.

(c) An individual who knowingly violates or knowingly aids or abets a public service company in the violation of subsection (b) of this section or any provision of this article:

- (1) is guilty of a misdemeanor; and
- (2) unless a different punishment is specifically provided by law, on conviction is subject to a fine not exceeding \$1,000 for a first offense and not exceeding \$5,000 for each additional or subsequent offense.

§ 13-201.

(a) This section does not apply to a violation of the following provisions of this article:

- (1) Title 5, Subtitle 4;
 - (2) Title 7, Subtitle 1;
 - (3) Title 8, Subtitles 1 and 3;
 - (4) Title 9, Subtitle 3; and
 - (5) § 13-205 of this subtitle.
- (b) A public service company that violates any provision of this article, or any effective and outstanding direction, ruling, order, rule, or regulation of the Commission, is subject to a fine not exceeding \$2,500 for each offense.
- (c) (1) Each violation is a separate offense.
- (2) Each day or part of a day the violation continues is a separate offense.
- (d) For determining whether there is a violation under this section, an act of a director, officer, or other individual acting within the scope of official duties is an act of the public service company.

§ 13-201.1.

- (a) This section does not apply to:
- (1) a common carrier; or
 - (2) a violation of the following provisions of this article:

- (i) Title 5, Subtitle 4;
- (ii) Title 7, Subtitle 1;
- (iii) Title 8, Subtitles 1 and 3;
- (iv) Title 9, Subtitle 3; and
- (v) Title 8, Subtitle 4.

(b) The Commission may impose a civil penalty not exceeding \$10,000 against a person who violates a provision of this article, or an effective and outstanding direction, ruling, order, rule, or regulation of the Commission.

(c) (1) A civil penalty may be imposed in addition to any other penalty authorized by this article.

(2) Each violation is a separate offense.

(3) Each day or part of a day the violation continues is a separate offense.

(d) The Commission shall determine the amount of any civil penalty after considering:

(1) the number of previous violations of any provision of this article;

(2) the gravity of the current violation;

(3) the good faith efforts of the violator in attempting to achieve compliance after notification of the violation; and

(4) any other matter that the Commission considers appropriate and relevant.

(e) A civil penalty collected under this section shall be paid into the General Fund of the State.

§ 13-202.

(a) In this section, "safety violation" means a condition or activity likely to cause injury or harm to an individual or property.

(b) This section does not apply to a safety violation by a gas company that is subject to § 13-203 of this subtitle.

(c) (1) Subject to paragraph (2) of this subsection, a public service company that violates a provision of this article that relates to safety is subject to a civil penalty not exceeding \$500 for each violation for each day that the violation persists.

(2) The maximum civil penalty may not exceed:

(i) \$50,000 for a related series of violations; or

(ii) for a common carrier, \$500 for each violation or related series of violations stemming from a single safety inspection.

(d) In determining the amount of a civil penalty imposed under this section, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the public service company;

(2) number of previous violations of this article by the public service company;

(3) gravity of the current violation; and

(4) good faith of the public service company in attempting to achieve compliance after notification of the violation.

(e) The public service company involved may request reconsideration of a penalty imposed under this section within 30 days after the date of notification of the determination.

§ 13-203.

(a) A gas company or gas master meter operator that violates any of the Commission's standards of safe service or other regulation related to safety adopted under § 5-101 of this article is subject to a civil penalty determined by the Commission that does not exceed the maximum penalties provided in Title 49, Chapter 601 of the U.S. Code (Federal Natural Gas Pipeline Safety Act):

(1) for each violation for each day or part of a day that the violation continues;
and

(2) for a related series of violations.

(b) Within 30 days after the date of notification of the determination, the gas company or gas master meter operator involved may request reconsideration to obtain a compromise.

(c) In determining the amount of a civil penalty or compromise, the Commission shall consider the:

(1) appropriateness of the penalty to the size of the gas company or gas master meter operator;

(2) gravity of the current violation; and

(3) good faith of the gas company or gas master meter operator in attempting to achieve compliance after notification of the violation.

(d) The amount of the penalty, when finally determined or agreed on in compromise, may be:

(1) deducted from any amount that the State owes to the gas company or gas master meter operator; or

(2) recovered in a civil action in State court.

§ 13-204.

Personnel of the Commission or Office of People's Counsel who are convicted of violating Title 2, Subtitle 3 of this article shall, in addition to any other penalties, be removed or discharged from office.

§ 13-205.

A public service company is subject to a fine of \$100 for each day beyond 30 days after the deadline set by the Commission that the public service company fails to:

(1) file its annual report with the Commission in accordance with Title 6, Subtitle 2 of this article;

(2) make a report or furnish information that the Commission requests or requires; or

(3) fails to give a full, specific, and responsive answer to any question reasonably directed to it by the Commission.

§ 13-206.

An individual who violates a provision of this article concerning for-hire driving services is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$50 for a first offense and not exceeding \$100 for each additional or subsequent offense.

§ 13-207.

A contract, assignment, or transfer in violation of this article is void.

§ 13-208.

(a) In addition to any otherwise available remedy, the Commission may summarily order a person who is subject to the jurisdiction of the Commission to cease and desist from an act or practice if the Commission determines from specific facts shown by affidavit or other statement made under oath that:

(1) the person has engaged in an act or practice that constitutes a violation of any provision of this article or any order or regulation adopted under this article that directly concerns consumer protection or public safety;

(2) immediate, substantial, and irreparable harm will result before the affected person could have an opportunity to respond to the facts alleged;

(3) the need for the immediate issuance of a summary cease and desist order outweighs the affected person's right to receive notice and be heard before issuance of the order; and

(4) issuance of the summary cease and desist order is in the public interest.

(b) A summary cease and desist order issued by the Commission under subsection (a) of this section shall:

(1) be personally and promptly served on the affected person or the person's legal representative;

(2) be effective only after it is served under item (1) of this subsection; and

(3) (i) identify the date and hour of issuance;

(ii) define the harm that the Commission finds will result if the summary cease and desist order is not issued;

(iii) state the basis for the Commission's finding that the harm will be immediate, substantial, and irreparable;

(iv) state that any person affected by the summary cease and desist order may immediately apply to have the order modified or vacated by the Commission;

(v) state that the Commission may modify or vacate the summary cease and desist order as requested or may set the matter for hearing under subsection (c) of this section; and

(vi) provide notice of the opportunity for an evidentiary hearing to determine whether the summary cease and desist order should be modified, vacated, or entered as final.

(c) (1) Within 15 calendar days after the date and hour of successful service of the summary cease and desist order, the affected person may file a request for an evidentiary hearing with the Commission on the propriety of a final order.

(2) If the Commission receives a request for an evidentiary hearing on the propriety of a final order from the affected person within the time limit in paragraph (1) of this subsection, the Commission shall complete the evidentiary hearing within 15 calendar days after the date and hour when the request is received.

(3) Within 48 hours after completing the evidentiary hearing requested under paragraph (1) of this subsection, the Commission shall issue a final order in which it shall determine whether the affected person has engaged in an act or practice that is in violation of any provision of this article or any order or regulation adopted under this article that directly concerns consumer protection or public safety.

(4) If the Commission does not receive a request for an evidentiary hearing on the propriety of a final order from the affected person within the time limit in paragraph (1) of this subsection, the summary cease and desist order shall become final.

(d) If the Commission fails to comply with subsection (c)(2) or (3) of this section, the summary cease and desist order is void from the time of issuance.

(e) The Commission may not impose a penalty for a violation of a summary cease and desist order that is void under subsection (d) of this section.